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United States District Court  
For the Northern District of California

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KEMA, INC., et al.,  
Plaintiffs,  
v.  
WILLIAM KOPERWHATS, et al.,  
Defendants.

No. C-09-1587 MMC

**ORDER RE: SCHEDULING OF (1)  
PLAINTIFFS’ MOTION TO DISMISS AND  
MOTION TO STRIKE, AND (2)  
DEFENDANT’S MOTION FOR LEAVE TO  
AMEND ANSWER AND  
COUNTERCLAIMS**

\_\_\_\_\_  
And related counterclaims.  
\_\_\_\_\_

On October 29, 2009, plaintiff/counterdefendant Kema, Inc., plaintiff/counterdefendant RLW Analytics, Inc., and third-party defendant Curt Pucket filed their Motion to Dismiss and Motion to Strike First Amended Answer and Counterclaims. On November 13, 2009, defendant/counterclaimant William Koperwhats (“Koperwhats”) filed opposition thereto as well as a Motion for Leave to Amend Koperwhats’s Answer and Counterclaims and Affirmative Defenses, by which he seeks leave to add a new party and to revise his affirmative defenses and counterclaims.<sup>1</sup>

<sup>1</sup> Koperwhats’s motion is noticed for hearing on December 4, 2009, the same date as that on which the motion to dismiss and motion to strike are scheduled to be heard. Koperwhats’s notice fails to comply with the Civil Local Rules of this District. See Civil L.R. 7-2(a) (requiring hearing to be noticed for date “not less than 35 days after service of the motion”). Additionally, Koperwhats failed to submit a proposed amended pleading with his motion. See Civil L.R. 10-1; see, e.g., Cureton v. Nat’l Collegiate Athletic Ass’n, 252 F.3d

1 The Court finds it appropriate to determine the motion for leave to amend prior to its  
2 consideration of the motion to dismiss or motion to strike.

3 Accordingly, the Court hereby SETS the following schedule:

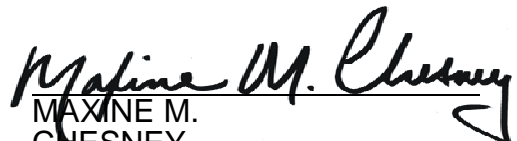
4 1.) Koperwhats shall supplement his motion with a proposed amended pleading, to  
5 be filed no later than November 25, 2009.

6 2.) The hearing on the motion for leave to amend is hereby CONTINUED to January  
7 15, 2010.

8 3.) The hearing on the motion to dismiss and motion to strike, previously scheduled  
9 for December 4, 2009, is hereby VACATED and will be reset, if necessary, following  
10 resolution of the motion for leave to amend.

11 **IT IS SO ORDERED.**

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13 Dated: November 17, 2009

  
MAXINE M.  
CHESNEY  
United States District Judge

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267, 273 (3rd Cir. 2001) (holding district court “may deny a request [for leave to amend pleading] if the movant fails to provide a draft amended complaint”).